

In the Drawings

Please enter revised drawing figures labeled 1/8, 2/8, 3/8 and 6/8. The revised drawings do not introduce new matter.

Remarks

The office action dated 6/15/2005 has been considered.

The Applicant hereby petitions for a 2-month extension of time for responding to the above office action, for which payment is submitted by the enclosed credit card form.

The Applicant has now corrected the specification and drawing figures as requested by the Examiner, to remove numerical references not found in the specification, and visa versa. However, the Applicant wishes to point out that paragraph 25 mentions reference bracket 315. All other irregularities in the drawing have been corrected either through revision of the Figures or revision to the specification.

The Examiner rejected claims 1-11. It is noted that Claim 12-14 have been previously canceled in view of the Examiner's previous restriction requirement.

It is noted that Claims 11 is rejected under 35 U.S.C. § 102 as being unpatentable over Healey (U.S. Pat. No. 5,184,568).

It is noted that Claims 1-4 and 8-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Morris (U.S. Pat. No. 5,382,422) in view of Keyes et al. (U.S. Pat. No. 3,946,944).

It is noted that Claims 5 and 6 are rejected under 35 U.S.C. § 103 as being unpatentable over Morris (U.S. Pat. No. 5,382,422) in view of Keyes et al. (U.S. Pat. No. 3,946,944), and further in view of Bradburn (U.S. Patent No. 5,575,239).

It is noted that Claims 7 is rejected under 35 U.S.C. § 103 as being unpatentable over Morris (U.S. Pat. No. 5,382,422) in view of Keyes et al. (U.S. Pat. No. 3,946,944), and further in view of Healey (U.S. Patent No. 5,184,568).

Claim 1 is amended to include the limitation that ... animal shelter inside said box is exposed directly to the foam insulating material without an intervening barrier. The prior art cited does not show or suggest that the Animal in the shelter would be exposed

directly to the foam insulating material of the substantially rigid insulating panel. The Applicant has noted in the application (see paragraph 16) that the direct exposure to foam insulating material, that is the uncovered insulating foam on the interior sidewalls of the chamber, provides the animal with a rapid and dramatic sensation of warmth attributed to the novel structure. This limitation finds support in the specification as disclosed in, among others, paragraph 16.

Claim 2 is amended to be re-written in independent form. The Applicant wishes to point out that the Madden et al. is not a valid prior art reference to teach or suggest that plastic based corrugated board be used to construct an animal shelter. Madden was filed on March 26, 2004, after the applicants filing date of Jan 21, 2004.

As to Claims 3-9, they depend indirectly or directly from dependent claim 1. Now that Claim 1 has been amended to overcome the prior art cited by the Examiner, these claims should also be in condition for allowance. However, the Applicant does not concede that, absent the amendment to claim 1, these dependent claims are not patentable. The Applicant does not agree that the Examiner has established a Prima facie case of obviousness in the first office action on the merits with respect to these claims.

Claim 10 is not amended. It is the Applicants position that the Examiner has failed to establish a prima facie case of obvious, as the prior art does not teach every limitation, specifically, that the box, or a kit for making the box deploys a prefabricated panel plastic based corrugated board. The Examiner's only alleged citation to prior art that disclosed the used of plastic based corrugated board is Madden, which is not a valid prior art reference, *supra*.

Claim 11 is amended to overcome the Examiner's rejection under 35 U.S.C §102(b) as being anticipated by Healy. Claim 11 as amended contains the limitation that the insulating material is solid foam and that the an animal sheltered inside said box is exposed directly to the solid foam insulating material without an intervening barrier. Healy does not show or suggest foam insulation or that the Animal would be exposed directly to the insulating material. The Applicant has noted in the application (see paragraph 16) that the direct exposure to foam insulating material, that is the uncovered

insulating foam on the interior sidewalls of the chamber, provides the animal with a rapid and dramatic sensation of warmth attributed to the novel structure.

No new matter is introduced in new claims 15-17, as paragraph 11 of the specification discloses that *"As the walls are preferably constructed from rigid foam insulation, a material having voids entrained within, they provide both thermal insulation and structural support to the habitat."* Further in paragraph 32 it is disclosed that *"The vertical dimensions of the side panels deliberately shorter than the height of box 720 such that the last of the six foam panels rests on the edges of the side panels 501 and 502 when inserted into box 720, forming the insulated roof of the habit."*

It is respectfully submitted that the new claims 15-17 clearly and patentably distinguish over the prior art, since it is believed that the construction defined in these claims differs essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references. Applicant believes that combining the references discussed above would not lead to the claimed invention, in that the present invention does not merely employ the known substitution of equivalents but rather employs a new, non-obvious combination to accomplish the objectives set out in the present application.


As for the proposed combination of references cited by the Examiner, it is respectfully submitted that since none of the references in the combination teaches the distinctive features of applicant's invention as defined now in the new claims 15-16, any hypothetical construction produced by this combination would not lead to applicant's invention.

It is respectfully submitted that the combined teachings of the references applied by the Examiner fail to disclose or even suggest the subject matter of the claims at issue. That a prior art reference could be modified to form the claimed structure does not supply a suggestion to do so. "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989).

In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the amended claims and new claims 15-17 and should be withdrawn. The new claims 15-17 should be considered as patentably distinguishing over the art and should be allowed.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned.

Respectfully submitted:

by:  on 11/11/2005

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